

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Lands - Kadapa District – Revision Petitions – Revision Petition filed by Sri Rachaputi Naga Bhushanam S/o Sri Tiruvengalaiah, R/o Badevel, Kadapa District against the orders of Joint Collector, Kadapa dated. 7-6-2007 in R.Dis (E2)/1643/06 – Revision Petition Allowed – Orders – Issued.

REVENUE (ASN.IV) DEPARTMENT

G.O. Ms No. 1542

Dated 23rd December 2008.

Read the following:-

1. Joint Collector, Kadapa D. Dis No. (E2)/1643/06, dated. 7-6-2007.
2. R.P. filed by Sri Rachaputi Naga Bhushanam S/o Sri Tiruvengalaiah, R/o Badevel, Kadapa District dated. 30-8-2007.
3. Govt. Memo No. 48977/Assn.IV(1)/2007-1 dated. 18-9-2008.
4. From the Collector, Kadapa Letter No. E3/3273/2007, dated. 9-10-2007.
5. Written Arguments dated. 27-9-2008 & 20-10-2008 filed by Sri Rachaputi Naga Bhushanam through his counsel.
6. Written Arguments dated. 20-10-2008 filed by Sri A. Ramanaiah & 3 others (Respondents) filed through their counsel.
7. From the Tahsildar, Gopavaram Letter No. A/225/05, dated. 9-11-2008
8. Proceedings of Prl.Secy to Govt in Prgds No. 48977/Assn.IV(1)/2007-3 dated. 24-11-2008.

ORDER :

Whereas Sri Rachaputi Naga Bhushanam S/o Tiruvengalaiah R/o Badvel, Kadapa District has filed Revision Petition second read above against the orders of the Joint Collector, kadapa issued in R.Dis.No. D2/1643/06, dated. 7-6-2007. The Revision Petition filed by the Petitioner has been admitted and impugned orders have been stayed vide Government Memo.No. 48977/Assn.IV(1)/2007, dated. 18-9-2007. Notices were issued to the Joint Collector, Kadapa, Tahsildar, Gopavaram Mandal and Sri A. Ramanaiah & 4 others unofficial respondents. The original records of the impugned orders have been obtained from the District Collector, Kadapa;

2. And whereas on verification of the records the brief facts of the case are as follows:-

- (i) Government land to an extent of Acs. 4.78 cents in Sy.No. 228 of Gopavaram Village was originally assigned to Sri Kodugundla china Narasaiah S/o Narsaiah of Gopavaram Village by the then Tahsildar, vide DKT.No.1380/07, dated. 30-1-1970.
- (ii) the said assignee has entered into an unregistered sale agreement with Revision Petitioner on 14-6-1976, and the sale agreement was got registered on 7-7-1993 through legal heirs of the original assignee.

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- (iii) the revision petitioner is in continuous possession and enjoyment of the subject land from the date of purchase and he was issued PPB/TTDs
- (iv) out of the above extent the revision petitioner has inturn sold an extent of 0.65 acres to others on 14-7-2000 through a registered sale deed.
- (v) the MRO., Gopavaram Mandal during the course of inspection found that the DKT land assigned to Sri Kodugundla Chinna Narsaiah s/o Narsaiah was alienated in favour of the revision petitioner and issued notices in his office Proceeding No. B/900/2001, dated. 19-4-2003, to both these assignees and revision petitioner. Both the assignees and revision petitioner have failed to submit their explanation and the MRO., Gopavaram issued final orders canceling the DKT patta and resumed the land to the Government.
- (vi) aggrieved with the orders of MRO., Gopavaram Mandal the revision petitioner filed appeal before the RDO., Rajampet. The RDO., Rajampet after hearing the arguments of revision petitioner as well as official respondent allowed the revision petition with observation that it was established that the MRO., Gopavaram has not applied the appropriate provision of Law for the cancellation DKT patta and for resumption of the land. The RDO., Rajampet also felt that it was not appropriate to him to go into the details of eligibility and other related issues. With the above observation the RDO., Rajampet allowed the revision petition filed by the petitioner and set-aside the orders passed by the MRO., Gopavaram Mandal vide MRO., Proceeding No.B/419/2005, dated. 15-11-2005. The RDO., Rajampet has also ordered that an appeal against his order to the Joint Collector, Kadapa lies within (30) days from the date of receipt of orders.
- (vii) at this stage Sri A. Ramanaiah and 3 others who are the locals of Gopavaram Village have filed revision petition before the Joint Collector, Kadapa against the orders passed by the RDO., Rajampet.
- (viii) the Joint Collector, Kadapa after examining the records submitted by the MRO., Gopavaram allowed the revision and set-aside the orders of RDO., Rajampet with direction to the RDO., to proceed according to the sub-divisions made in case of this land.
- (ix) aggrieved with orders of Joint Collector, Kadapa Sri Rachaputi Nagabhushanam filed a revision petition before the Government under section 4 B of APAL (POT) Act, 1977. Government, have admitted the appeal and stayed the operation of impugned orders of Joint Collector, and MRO., Gopavaram Mandal. The original records of the case along with the remarks of the Collector, Kadapa by the revision authority.

3. And whereas the revision authority heard the case on 30-8-2008 and on 27-9-2008 while the Advocate for the petitioner, the Advocate for un-official respondents, and the Tahsildar Gopavaram Mandal have attended;

4. And whereas the revision petitioner's advocate has perused the records and submitted written arguments. He made the following contentions:-

- (i) he has purchased an extent of Acs. 4.78 cents in Sy.No. 228 of Gopavaram Village through a possessory agreement of sale on 14-5-1976 for valuable consideration. A copy of the sale agreement has been produced. He has also stated that he paid the tax on 10-4-1979 with a receipt No. 292325 etc., He has further stated that he has taken possession of the land from the original assignee by paying value in good faith, on 14-5-1976 and taken possession of the land.
- (ii) he has further stated that the original assignee died and he got the original agreement made in 1976 registered from legal heirs of the late assignee on 7-7-1993 and obtained Pattadar Pass Book / Title Deeds.
- (iii) he has also sold 0-30 cents of land in favour of E.Venka Subbaiah through registered sale deed dated. 15-7-2000 through Document No. 792/2000 and another 0-35 cents in favour D. Subbaiah through document No. 793/2000 dated. 15-7-2000. The MRO., Gopavaram has given a notice to him and he has also submitted explanation to the MRO., without referring his reply MRO issued orders for resumption by canceling the original patta vide Proceeding. No. B/900/2001, dated. 10-5-2003.
- (iv) aggrieved with the orders of MRO., Gopavaram Mandal he filed a revision before the RDO., Rajampet, who has allowed the appeal and set-aside orders of MRO., vide RDO., proceeding No.B/419/2005, dated. 15-11-2005.
- (v) he has also stated that some of the villagers of the Srinivasapuram who are in no way connected with the subject land filed revision before the Joint Collector, Kadapa against the orders of RDO., Rajampet.
- (vi) the Joint Collector, Kadapa went beyond the scope of enquiry and assumed several proposition without answering the question involving in the case. The Joint Collector, kadapa did not consider the request of petitioner that his sale is excluded from the Act of 1977 u/s 3 (5) of the A.P. Assigned Land (POT) Act, 1977 through possessory agreement sale and paid entire sale consideration and taken possession of the property. He has also paid the taxes to the subject land from the year 1976 on wards.

- (vii) the revision petitioner's advocate has also stated that the proposition of learned Joint Collector, Kadapa is incorrect in the teeth of section 2 (6) which defines transfer. Section 2 (6) of the Act, reads that "transfer means any sale, gift, exchange, mortgage with or without possession, lease or any other transaction with assigned lands, not being a testamentary disposition and includes a charge on such property or a contract relating to assigned lands in respect of such sale, gift, exchange, lease or other transaction". In view of the above law a contract (agreement) is brought into the definition of transfer and he has been in possession of the property since 1976 and findings of Joint Collector, Kadapa are not correct.
- (viii) he has also stated that the observation made by the Joint Collector, Kadapa that revision petitioner is not a landless poor person by the entries in the pass book is also not correct. The land less poorness of the purchaser shall be decided by taking into consideration of the land, he was holding at the time of purchase of assigned land and this preposition was also upheld and the Hon`ble High Court through various Judgments. As seen from the Pass Book the revision petitioner acquired all the properties after 1985 only.
- (ix) the Joint Collector, while hearing the case has not paid much attention on the various Judgments of High Court produced by him. The revision petitioner has requested to allow his revision and set-aside the impugned orders.

5. And whereas the un-official respondents Sri A. Ramanaiah & (3) others have also submitted a written arguments before the revision authority, the contention of the un-official respondents are as follows:-

- (i) the land admeasuring 4.78 acres in Sy.No. 228 of Gopavaram Village is an assigned land in favour of Sri Kodugundla china Narasaiah S/o Narsaiah and as per the DKT., conditions it is heritable, but not alienable.
- (ii) the alleged agreement of sale is a created document by the revision petitioner and alleged tax receipt are also seems to be obtained by the petitioner for protracting the present litigation and will not confer any right or interest on the petitioner.
- (iii) the petitioner intelligently created the said alleged agreement dated. 14-5-1976 to gain the benefit.
- (iv) the revision petitioner is having 17.19 cents of land in various Sy.Nos. and also a business person. He is also trying to plot the land into small bits and sell them to 3rd parties.

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- (v) they are the natives of Srinivasapuram Village Gopavaram Mandal and they are interested in the public purpose to protect land, they filed revision before the Joint Collector, Kadapa. They have also stated that under section 54 of transfer of property act a contract of sale will not create any interest in the property and thus the sale agreement can not be taken into consideration.
- (vi) the R.P. is not eligible for claiming any exemption U/s 3 (5) of A.P. Assigned Land (POT) Act, 1977;

6. And whereas in the letter 6th read above, the Tahsildar, Gopavaram mandal has submitted the details of properties held by the revision petitioner which he has acquired subsequently. He is also presently sitting Zilla Parishat Territorial Constituency Member of Gopavaram Mandal. The Mandal Revenue Officer, has also reported that the revision petitioner procured properties from 1983 onwards and he comes under Above Poverty Line category;

7. And whereas Government, being the revision authority, after hearing the arguments of the Advocates of the petitioner and un-official respondent and also after perusing the original records made available by the Collector, Kadapa and also the report of Tahsildar, Gopavaram Mandal have observed as follows :-

- (i) the revision petitioner has purchased the subject land from the original assignee Sri Kodugundla china Narasaiah S/o Narsaiah on 14-5-1976 through an agreement of sale with possession by paying reasonable value in good faith. He has also paid the land Revenue from 1384 Fasli onwards. He has also entered into sale agreement with possession from the original assignee.
- (ii) consequent on the death of the original assignee the revision petitioner got the sale validated through a registered document No. on 7-7-1993, signed by the legal heirs of the original assignee.
- (iii) none of the legal heirs of the original assignee made representation against the possession of the subject land by the revision petitioner by way of agreement from their father, this will confirm that the revision petitioner is in possession and no doubt will arise about the genuineness of the unregistered document and also the tax receipt issued by the revenue authorities.

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- (iv) the contention of the un-official respondents and also the official respondents is that the revision petitioner is a landed ryot and ineligible for assignments of any Govt., lands. As seen from the records and report, this authority observed that the revision petitioner has procured the property reported only after 1983 onwards. As on the date of sale agreement on 14-5-1976 the revision petitioner appears to be a landless poor person as on the date of purchase of the assigned land by paying reasonable value in good faith.

8. Therefore, the Government after careful consideration have decided that, revision petitioner is eligible for exemption under section 3 (5) of A.P. Assigned Land (Prohibition of Transfers) Act, 1977 and the revision petition filed by Sri Rachaputi Nagabhushanam is hereby allowed and the impugned orders of Joint Collector, Kadapa and Tahsildar, Gopavaram Mandal are hereby set-aside.

9. The District Collector, Kadapa shall take necessary action accordingly.

10. This order issues in supersession of the Proceedings No. 48977/Assn.IV(1)/2007-3 dated. 24-11-2008.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**M. SAMUEL
PRINCIPAL SECRETARY TO GOVERNMENT**

To
Sri Rachaputi Naga Bhushanam,
S/o Tiruvengalaiah,
Aged about 55 years
R/o Badevel,
Kadapa District

The Joint Collector, Kadapa District,
The Tahsildar, Gopavaram mandal,
Kadapa District.

A. Ramaiah
Madala Venkateswarlu
R.C. Vema Reddy
Karnati Vengaiah

(Respondents 3 to 6 are R/o Sreenivasapuram Village
Madakalavaripalli Post, Gopavaram, Mandal,
Kadapa District.)

//FORWARDED::BY ORDER//

SECTION OFFICER